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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/659,898

09/11/2003

Andrew J. Kuzma

42.P13639D

4189

7590

04/25/2006

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EXAMINER

DOLAN, JENNIFER M

ART UNIT

PAPER NUMBER

2813

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

AD

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/659,898	Applicant(s) KUZMA, ANDREW J.	
	Examiner Jennifer M. Dolan	Art Unit 2813	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): none.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 1-8 and 27-29.
- Claim(s) withdrawn from consideration: 19-22.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


CARL WHITEHEAD, JR.
SUPERVISORY PATENT EXAMINER
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Continuation of 3. NOTE: The proposed amendment removes the previously presented limitation that the test structure is included on the wafer. Proposed claim 1 reads on significantly broader device structures, such as a laser coupled to a photodetector using an optical fiber or external mirror (as a re-directing interface), and thus would require different searches than the claims previously set forth.

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant's arguments are addressed as follows:

The Applicant argues that Choa does not teach optically coupling the scattering trench to either the front or back facet. The Examiner disagrees, primarily because a laser facet both emits some portion of the light in the active region and reflects a different portion of the light. Since the scattering trench of Choa is coupled with the active region of the laser, it is then also optically coupled to the portion of the light reflected from the front and back facets. Hence, the Examiner considers it reasonable to interpret the scattering trench in Choa as being optically coupled to the laser facets.

The Applicant further argues that the interface structure in Choa is positioned to re-direct surface emitted light and not light emitted from the front or back facet. The Examiner agrees with this interpretation, but notes that the proposed amendment requiring this limitation cannot be entered due to the reasons listed supra, in item 3.

Regarding the arguments pertaining to desirability of removing the test structure of Choa, the Examiner notes that the claims only require the test structure to be removable, but do not require actually removing the test structure. Hence, since it is physically possible to remove the test structure of Choa, it is interpreted as being "removable" (i.e., capable of being removed). The Examiner recommends adding a limitation of actually removing the test structure from the wafer, in order to improve the clarity of the claimed subject matter.